

Healthcare in the 115th Congress

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The healthcare landscape for the 115th Congress took a major turn when Donald Trump was elected to be the next president of the United States. Throughout the campaign, President-elect Trump vowed to repeal the Affordable Care Act (ACA) in its entirety and replace it with something different. This has caused unease within the healthcare industry, including hospitals and physicians, as many within the industry have spent the past six years learning to comply with the "law of the land".

After calling for repeal and replace for the past 6 years, the GOP has no choice but to act. How the process of repeal and replace will work is somewhat unclear because Republicans have not fully coalesced around a single strategy.

However, both House and Senate Republican leadership have indicated that the repeal part of

the plan will move quickly, possibly in January. With control of both Congress and the White House, the GOP will pursue budget reconciliation to repeal key components of the ACA. Replacement will be a more measured approach. House Majority Leader Kevin McCarthy recently said that they want to make sure replacement is "done right", expressing reluctance to set a deadline by which replacement has to be completed. Instead of one giant package, the GOP could move a combination of many smaller bills. No matter what plan or combination of plans Republicans choose to pursue, they likely will not be able to cover the number of those covered currently under the ACA. This has been and will continue to be a major issue.

With the nomination of Congressman Tom Price, as Secretary of the Department of Health and Human Services (HHS), President-elect Trump has highlighted the importance of his campaign promise to repeal and replace the ACA. Dr. Price has long been an outspoken critic of the Affordable Care Act and has advocated passionately for its repeal. He was also one of the few members of Congress to introduce a replacement plan. His Empowering Patients First Act could be the leading vehicle for ACA replacement. Other possibilities include Speaker Paul Ryan's Better Way plan or the Patient CARE Act written by Senator Orrin Hatch, Chairman of the Senate Finance Committee. It also should be noted that having Congressman Price, a long-time advocate of Speaker Ryan's Medicare reform plans, at the top of HHS increases the likelihood that Medicare reform will be on the agenda, possibly in 2018.

President-elect Donald Trump also made another important nomination for the healthcare space when he named Seema Verma to serve as the Center for Medicare and Medicaid Services administrator. She is best known for her work on Medicaid issues in Indiana and her close ties to Vice President-elect Mike Pence. She designed the Obamacare Medicaid expansion model and has advised several Republican

Key Players

Administration

Tom Price

Secretary of Health and Human Services

Seema Verma

Administrator of the Centers for Medicare and Medicaid Services

Senate

Committee on Health, Education, Labor and Pensions

Lamar Alexander (R-TN)
Chairman

Patty Murray (D-WA)
Ranking Member

Finance Committee

Orrin Hatch (R-UT)
Chairman

Ron Wyden (D-OR)
Ranking Member

House

Energy and Commerce Committee

Greg Walden (R-OR)
Chairman

Frank Pallone, Jr. (D-NJ)
Ranking Member

Ways and Means Committee

Kevin Brady (R-TX)
Chairman

Richie Neal (D-MA)
Ranking Member

states on how to add conservative elements such as health savings accounts and employment requirements to their programs. With Congressional Republicans and President-elect Trump supporting block granting Medicaid to the states, her nomination shows the commitment of the Trump Administration to reform of the Medicaid program.

While ACA repeal is getting a great deal of attention, there are other “must do” healthcare items that will need to be addressed in the 115th Congress. The Prescription Drug User Fee Act (PDUFA) authorizes FDA to collect fees from drug companies for its drug approval process and expires in September of 2017. Work on this reauthorization has already begun; reportedly, Senate Health, Education, Labor and Pensions (HELP) Committee Chair Lamar Alexander and Ranking Member Patty Murray are both in agreement that the PDUFA reauthorization should be also be used to address the cost of pharmaceuticals.

Other programs facing expiring deadlines next year also include the Children’s Health Insurance Program (CHIP) that expires at the end of September in 2017 as well as a number of Medicare “Extenders”, such as the Medicare ambulance add-on payment, the therapy cap exceptions process, the low-volume hospital adjustment, the home health rural add on, extension of the current GPCI work floor, and the Medicare-dependent Hospital program, among others, which are all due to expire at the end of 2017. There has long been a desire in Congress to permanently reform these programs and end the temporary extenders process. Now that the Medicare physician payment system has been permanently reformed, lawmakers may be able to finally address these programs.

Many other issues could be the subject of consideration in the next Congress. The Senate Finance Committee has put forward a chronic care proposal with strong bipartisan support, and has indicated a strong desire to move it forward next year. Disproportionate share hospitals (DSH) that serve a large number of low-income patients face a significant reduction in October of 2017 as a result of ACA provisions, a topic that could be discussed in the Medicaid debate. The 340B drug pricing program was an issue that was the subject of a significant number of hearings in the 114th Congress. It is anticipated that by the end of 2016, the Obama Administration will release the “mega-guidance” proposed earlier this year by the Health Resources and Services Administration to regulate the 340B program. Many expect this to continue to be an issue of concern to the pharmaceutical industry, hospitals and the Congress.

Health care will certainly be a hot topic in the next several years. As has been discussed, the ACA is only one of many issues that are slated to be debated and/or considered 115th Congress which may offer both opportunities and challenges for the health care industry.